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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,759	07/28/2006	Jaap Bakker	P06937US0	1638
34082 7590 04/26/2010 ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350				
EXAMINER SINGH, KAVEL				
ART UNIT 3651		PAPER NUMBER		
MAIL DATE 04/26/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,759

Applicant(s)

BAKKER ET AL.

Examiner

KAVEL P. SINGH

Art Unit

3651

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10, 12, 13 and 15-21 is/are rejected.
- 7) ☒ Claim(s) 5-8, 11 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In view of the appeal brief filed on 2/1/10, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Gene Crawford/

Supervisory Patent Examiner, Art Unit 3651.

Claim Objections

Claim 17 is objected to because of the following informalities: The preamble should match the preamble of the independent claim 1 and is treated as a dependant claim of 13. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 17,18, and 21, the word "means" is preceded by the word(s) "displacing means", "conditioning means", and "temperature regulating means" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,9-13,15-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhart U.S. Patent Application Publication No. 2202/0011400 A1. Claim 1, Burkhart teaches a plastic guide profile (60a,60b) having a guide surface (130) over which displaceable objects via 22 can slide directly or via a product carrier 22, and a support structure (42) supporting the guide profile (60a,60b), characterized in that the guide profile (60a,60b) is engaged at least at two spaced-apart positions (along 132) by the support structure (42), at least one engaging position Fig. 2 of which consists of a

free support (open side of 60a,60b) of the guide profile (60a,60b) on the support structure (32) such that the freely supporting side of the guide profile (60a,60b) is displaceable relative to the support structure (42,40) P2 P0019. Burkhart is silent regarding the material of guide profile 42, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Claim 2, Burkhart teaches the guide profile (60a,60b) is coupled rigidly on one side to the support structure (42) Fig. 1.

Claims 3 and 4, Burkhart teaches the guide profile (60,60b) is provided with a three-dimensional contact surface (26,42) at the position where it supports freely on the support structure (42 on the side) (Fig. 1).

Claim 9, Burkhart teaches the guide profile (60a,60b) is manufactured from a high-molecular polyethylene. Burkhart is silent regarding the material of guide profile 42, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Claim 10, Burkhart teaches the support structure 42 is manufactured from metal (it is known to one of ordinary skill that metal is used in manufacturing of systems).

Claim 12, Burkhart teaches the guide profile (60a,60b) is provided on opposite sides with engaging positions (top of 42) Fig. 2.

Claim 13, Burkhart teaches a plurality of mutually connecting guides (90b) wherein a plurality of guide profiles (60a,60b) are placed connecting with a gap (filled by 90b between 60a,b and 42) to each other (Fig. 1).

Claim 15, Burkhart teaches the plurality of profile (60a,60b) parts are engaged by a single support structure (42) (Fig.1).

Claim 16,17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhart U.S. Patent Application Publication No. 2202/0011400 A1 in view of Thompson U.S. Patent No. 1,651,912.

Claims 16 and 19, Burkhart teaches the plurality of profile 60a,60b, but Thompson teaches parts (P1 L108-110) form a helical guide track (Fig.1). It would be obvious to one of ordinary skill to use the guide profile of Burkhart into the helical shape of Thompson for relatively easy transfers from the unit to another unit, while at the same time permitting a relatively high operating speeds and reduced capstan affect.

Claim 17, Burkhart teaches displacing means 22 for displacing the products for conditioning along the guide 60a,60b, Thompson teaches a housing 1,1' at least partially enclosing the assembled guide 60a60b of Burkhart and the displacing means 22, and conditioning means (cooling chamber as taught by Thompson) for regulating the atmosphere in the housing (P2 L48-50). It would be obvious to one of ordinary skill to use a conditioning means as taught by Thompson into the invention of Burkhart in this case for economic reasons.

Claim 18, Burkhart does not as Thompson teaches the conditioning means (cooling chamber as taught by Thompson) comprise temperature-regulating means (P1 L5-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate temperature controllable features as taught by Thompson into the invention of Burkhart in this case for economic reasons.

Claim 20, Burkhart does not teach as Thompson teaches a rotatable core 9,9'9" is placed in the helical conveyor track (P2 L1-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to teach a rotatable core as taught by Thompson into the invention of Burkhart to move the track in a helical direction.

Claim 21, Burkhart teaches the displacing means 22 comprise a driven endless conveyor track (P1-2 P0017).

Allowable Subject Matter

Claims 5-8,11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651